

Nos. 23-1174 (L), 23-1221

IN THE
**United States Court of Appeals
for the District of Columbia Circuit**

CITY OF PORT ISABEL, ET AL.,

Petitioners,

v.

FEDERAL ENERGY REGULATORY COMMISSION,

Respondents,

RIO BRAVO PIPELINE COMPANY, LLC; RIO GRANDE LNG, LLC

Intervenors for Respondent.

**On Petition for Review of Orders of the
Federal Energy Regulatory Commission**

**MOTION OF THE CITY OF BROWNSVILLE, TEXAS; CAMERON
COUNTY, TEXAS; GREATER BROWNSVILLE INCENTIVES
CORPORATION; BROWNSVILLE COMMUNITY IMPROVEMENT
CORPORATION; BROWNSVILLE CHAMBER OF COMMERCE, CITY
OF LOS FRESNOS, TEXAS; TOWN OF RANCHO VIEJO, TEXAS; TOWN
OF INDIAN LAKE, TEXAS; AND THE CITY OF EDINBURG, TEXAS
FOR INVITATION TO FILE BRIEF AS *AMICI CURIAE* IN SUPPORT OF
INTERVENORS RIO BRAVO PIPELINE COMPANY, LLC AND RIO
GRANDE LNG, LLC'S PETITIONS FOR PANEL REHEARING
AND REHEARING EN BANC.**

(counsel appears on inside cover)

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CORPORATE DISCLOSURE STATEMENT

Pursuant to Federal Rules of Appellate Procedure 26.1 and 29, and D.C. Circuit Rule 26.1, the City of Brownsville, Texas (“Brownsville”), Cameron County, Texas (“Cameron”), Greater Brownsville Incentives Corporation (“GBIC”), Brownsville Community Improvement Corporation (“BCIC”), Brownsville Chamber of Commerce (“Chamber”), City of Los Fresnos, Texas (“Los Fresnos”), Town of Rancho Viejo, Texas (“Rancho Viejo”), Town of Indian Lake, Texas (“Indian Lake”), and the City of Edinburg, Texas (“Edinburg”) make the following disclosures:

1. Brownsville is a political subdivision of the State of Texas with a population of 186,738 and is located on the southern tip of Texas, near the United States - Mexico border and the Gulf of Mexico. As a municipality, Brownsville is known as the city that is “On the Border, By the Sea, and Beyond” and provides basic services, including public safety, ambulances, water and electric utilities, and public transit. Brownsville has no parent corporation, and no publicly held company has a 10% or greater ownership interest in Brownsville. Brownsville has a seven-member City Commission that governs and is responsible for the health and safety of its citizens and for protecting its environment and economy.

2. Cameron is a political subdivision of the State of Texas with a population of 425,208. As a county, Cameron provides basic services, including

elections, public safety, building code enforcement, county clerk services, tax collection, and operates a county airport, an international bridge system, local courts and jails within its territory. Cameron has a County Judge and four County Commissioners who govern and are responsible for the health and safety of its citizens and for protecting its environment and economy.

3. GBIC is an incorporated, not-for-profit economic development corporation created under the Texas Development Corporation Act and the Texas Business Organization and Commerce Code in order to finance new and expanded business enterprises. As an extension of Brownsville, GBIC was created to fund industrial development projects such as business infrastructure, manufacturing, and research and development. GBIC can also fund military base realignment, job training classes, and public transportation. A sales and use tax of 0.025% is collected by the Texas Comptroller to fund those projects. GBIC has no parent corporation, and no publicly held company has a 10% or greater ownership interest in GBIC.

4. BCIC is an incorporated, not-for-profit economic development corporation created under the Texas Development Corporation Act and the Texas Business Organization and Commerce Code in order to finance new and expanded business enterprises and cultivate communities. As an extension of Brownsville, BCIC was created to fund parks, museums, sports facilities, and affordable

housing, in addition to projects eligible for GBIC funding. A sales and use tax of 0.025% is collected by the Texas Comptroller to fund those projects. BCIC has no parent corporation, and no publicly held company has a 10% or greater ownership interest in BCIC.

5. Chamber is an incorporated, not-for-profit corporation created to serve as a Chamber of Commerce and for that end, to promote the civil, commercial, industrial, transportation, international, educational, agricultural, maritime, and other interests of the City of Brownsville and its contiguous territory; and to correlate the efforts of citizens of Brownsville and of the members of this organization, to engage in research and study that is pertinent to the needs of the membership and the community and on completion of such study and research, to make the results available to the members; to foster and maintain goodwill and friendly relations with business persons and officials of Brownsville's sister City of Matamoros, State of Tamaulipas and the Republic of Mexico. Chamber has no parent corporation, and no publicly held company has a 10% or greater ownership interest in Chamber.

6. Los Fresnos (Spanish for ash tree) is a political subdivision of the State of Texas with a population of 8,114. As a municipality, Los Fresnos is known as the "Community with Opportunity" as it provides basic services, including public safety, ambulances, water and electric utilities. Los Fresnos has no parent

corporation, and no publicly held company has a 10% or greater ownership interest in Los Fresnos. Los Fresnos has a six-member City Council that governs and is responsible for the health and safety of its citizens and for protecting its environment and economy.

7. Rancho Viejo (Spanish for old ranch) is a political subdivision of the State of Texas with a population of 2,838. As a municipality, Rancho Viejo is situated between the South Texas cities of Brownsville and Harlingen. The Rancho Viejo community is built around stunning tropical waterways – or Resacas - and one of the finest golf courses in the Rio Grande Valley. Rancho Viejo provides basic services, including public safety, ambulances, water, and electric utilities. Rancho Viejo has no parent corporation, and no publicly held company has a 10% or greater ownership interest in Rancho Viejo. Rancho Viejo has a six-member Board of Aldermen that governs and is responsible for the health and safety of its citizens and for protecting its environment and economy.

8. Indian Lake is a political subdivision of the State of Texas with a population of 843. As a municipality, Indian Lake known for its peacock population that roams freely, provides basic services, including public safety, ambulances, water and electric utilities. Indian Lake has no parent corporation, and no publicly held company has a 10% or greater ownership interest in Indian Lake. Indian Lake has a six-member Town Council that governs and is responsible for

the health and safety of its citizens and for protecting its environment and economy.

9. Edinburg is a political subdivision of the State of Texas with a population of 104,294. As a municipality, it is the county seat of Hidalgo County and has been recognized as an All-America City four times by the National Civic League. Edinburg is also home to one of the University of Texas System's leading schools, the University of Texas Rio Grande Valley. Edinburg provides basic services, including public safety, ambulances, water and electric utilities, and public transit. Edinburg has no parent corporation, and no publicly held company has a 10% or greater ownership interest in Edinburg. Edinburg has a five-member City Council that governs and is responsible for the health and safety of its citizens and for protecting its environment and economy.

Date: October 28, 2024

Respectfully submitted

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The City of Brownsville, Texas (“Brownsville”), Cameron County, Texas (“Cameron”), Greater Brownsville Incentives Corporation (“GBIC”), Brownsville Community Improvement Corporation (“BCIC”), Brownsville Chamber of Commerce (“Chamber”), City of Los Fresnos, Texas (“Los Fresnos”), Town of Rancho Viejo, Texas (“Rancho Viejo”, Town of Indian Lake, Texas (“Indian Lake”), and the City of Edinburg, Texas (“Edinburg”) (collectively, the “Movants”) respectfully move for an invitation from this Court, pursuant to D.C. Circuit Rule 35(f) and Federal Rule of Appellate Procedure 29(b)(2), to submit a brief as *amici curiae* in support of the petition for panel rehearing and rehearing en banc filed by Intervenor Rio Bravo Pipeline Company, LLC (“Rio Bravo”) and Rio Grande LNG, LLC (“Rio Grande”). *See, e.g.*, Order, *United Mine Workers of Am. v. Energy W. Mining Co.*, No. 20-7054 (Doc. 1962268) (D.C. Cir. Sept. 6, 2022) (granting similar request for invitation to file *amici curiae* brief in support of rehearing petition); Order, *PHH Corp. v. CFPB*, No. 15-1177 (Doc. 1661675) (D.C. Cir. Feb. 16, 2017) (same); Order, *Nat’l Ass’n of Mfrs. v. SEC*, No. 13-5252 (Doc. 1582585) (D.C. Cir. Nov. 9, 2015) (same); Order, *Elec. Power Supply Ass’n v. FERC*, No. 11-1486 (Doc. 1512775) (D.C. Cir. Sept. 17, 2014) (same).

Respondent the Federal Energy Regulatory Commission (“FERC”) and Intervenor Rio Bravo and Rio Grande do not oppose Movants’ request. Petitioners do. The *amicus* brief conditionally submitted to the Court with this motion adheres to the 2,600-word limit found at Federal Rule of Appellate Procedure 29(b)(4).

As grounds for this motion, Movants state:

1. Brownsville is the largest city in the Rio Grande Valley and came to be known as the “Crossroads of the Hemisphere” as it connects the United States to the gateways of Latin America and beyond. Today, the second most historic city in Texas is a major industrial and manufacturing center. Brownsville’s population has an average age of 29 years and is made up of an intergenerational workforce. This young population wants job opportunities in or near Brownsville, as do residents from Los Fresnos, Rancho Viejo, Indian Lake, and Edinburg. Brownsville has a substantial interest in reversing the tide of poverty for generations of low-to-moderate-income families, which make up approximately 55% of residents. In the last two years, during the construction of the Rio Bravo and Rio Grande projects, the area has seen data confirming the shrinking race gap in economic mobility as reported by the National Bureau of Economic Research, <https://www.nber.org/papers/w32697> (last visited Oct. 28, 2024). Brownsville desires a sustainable community, one where high-paying jobs are readily available,

high-quality healthcare is accessible, and families can stay united and experience quality of life together. Brownsville accordingly has direct interests in the continued progression of the Rio Bravo and Rio Grande projects and continued investment in energy infrastructure.

2. Cameron, too, has a substantial interest in reversing the tide of poverty. Cameron has seen Rio Bravo and Rio Grande's commitment to local hiring and procurement which has benefited Cameron's communities. By engaging area vendors for the construction and operation of the Rio Bravo and Rio Grande facilities, Intervenor has ensured that the economic benefits ripple throughout area businesses and service providers. Also, the Rio Bravo and Rio Grande projects are linked to the Brazos Island Harbor (BIH) Channel Improvement Project at the Port of Brownsville, which entails a deepening of the ship channel. Rio Bravo, Rio Grande, the U.S. Army Corps of Engineers, and the Port of Brownsville have committed hundreds of millions of dollars to this project. The Port of Brownsville has been trying to execute the BIH project since 2007 and Rio Bravo and Rio Grande's commitment to construct Phase 1 has made it a reality. If this court's ruling is upheld, the BIH project may not be completed, and the substantial benefits to Cameron and the surrounding area created by the increased trade at the Port of Brownsville will not materialize. Cameron

accordingly also has a direct interest in the continued progression of the Rio Bravo and Rio Grande projects and continued investment in energy infrastructure.

3. GBIC seeks to promote economic growth in the southernmost region of Texas by empowering a young and skilled workforce and driving innovation to the area. GBIC promotes economic growth by working with regional and international partners in the areas of job creation, training, innovation, and manufacturing – such as Rio Bravo and Rio Grande. Like the other proposed amici, GBIC accordingly has a direct interest in the continued progression of the Rio Bravo and Rio Grande projects and continued investment in energy infrastructure.

4. BCIC was approved by the voters as Proposition Number 1 in an election held on November 6, 2001. BCIC's purpose is similar to GBIC, but BCIC is also tasked with funding quality-of-life projects in the City of Brownsville through a 0.025% cent sales tax fund. BCIC accordingly has a direct interest in the continued progression of the Rio Bravo and Rio Grande projects and continued investment in energy infrastructure.

5. The Chamber is a member-driven business organization whose principal mission is to advance the business interests of its members through leadership, civic engagement, promotion, support, and advocacy. The Rio Bravo and Rio Grande projects have created 856 full-time jobs, with 5,000 more new

jobs are anticipated over the next five (5) years. These projects have led to 58% local hires. Of the \$2.92B in vendor expenditures, 60% of vendors are local and will provide additional indirect jobs, a much-needed regional and sustainable boost. The Chamber accordingly has a direct interest in the continued progression of the Rio Bravo and Rio Grande projects and continued investment in energy infrastructure.

6. Los Fresnos, like Brownsville, has experienced growth as well. More and more people are choosing to live in this suburban community and make the short commute to work in Brownsville or by the Port of Brownsville. Los Fresnos accordingly has a direct interest in the continued progression of the Rio Bravo and Rio Grande projects and continued investment in energy infrastructure, as these will bring permanent jobs to the residents of Los Fresnos.

7. Rancho Viejo, like Los Fresnos and Brownsville, has experienced growth as well, that depends in significant part on these projects. More and more people are choosing to live in this suburban community and make the short commute to work in Brownsville or by the Port of Brownsville. The Rio Bravo and Rio Grande projects propose to bring permanent jobs to Rancho Viejo's residents. Rancho Viejo accordingly has a direct interest in the continued progression of the Rio Bravo and Rio Grande projects and continued investment in energy infrastructure.

8. Indian Lake, like Rancho Viejo, Los Fresnos, and Brownsville, has also experienced growth as well, the continuation of which depends on the Rio Bravo and Rio Grande projects. More and more people are choosing to live in this suburban community and make the short commute to work in Brownsville or by the Port of Brownsville. The Rio Bravo and Rio Grande projects would bring permanent jobs to Indian Lake's residents. Indian Lake, accordingly, has a direct interest in the continued progression of the Rio Bravo and Rio Grande projects and continued investment in energy infrastructure.

9. Although Edinburg, the county seat of Hidalgo County, is approximately 64 miles from Brownsville, the Rio Bravo and Rio Grande projects' economic impacts have been felt in what is known as the upper valley of the Rio Grande Valley. Edinburg is the gateway from upper valley to the rest of Texas as State Highway 281 runs through the city. In addition to the direct jobs created, indirect jobs will emerge through supporting industries like construction, transportation, and supply chains within Edinburg and surrounding cities. The influx of capital investment will improve regional infrastructure, positioning the Rio Grande Valley, most especially Edinburg, as a competitive destination for further industrial and commercial investments. This, in turn, will attract other companies and industries looking to capitalize on the region's growing prominence, making the Rio Grande Valley a dynamic hub for economic

development and opportunity for years to come. Edinburg accordingly has a direct interest in the continued progression of the Rio Bravo and Rio Grande projects and continued investment in energy infrastructure.

10. In supplement to the Intervenor's petition, Movants wish to address the consequences of the panel's decision for their communities. Here, as the proposed amicus brief explains, the panel ordered vacatur without adequately considering the massive harm to Movants as a multibillion-dollar project is brought to a screeching halt and the loss of jobs, current and promised, bring the local economy to a standstill.

11. Movants believe that their proposed brief will be useful to the Court. Because of Movants' knowledge of the positive impacts of the Intervenor's project, they are uniquely situated to provide a critical perspective on the factual, legal, and policy issues implicated by the panel decision, as well as the practical reasons why rehearing is warranted. This unique perspective is not provided by any other party or *amici*. See Fed. R. App. P. 29(a)(3).

12. Consistent with D.C. Cir. R. 29(d), Movants seek leave to file a consolidated brief as *amici curiae*, as Movants' perspectives are sufficiently aligned to make joint filing practicable. Movants are aware that other entities have sought or may seek leave to file *amicus* briefs in support of the Intervenor's petition. However, to Movants' knowledge, all other prospective *amici* have

distinct interests and perspectives based on their business or associational purposes, which are sufficiently different from Movants' interests to render joint briefing with them impracticable. *See* D.C. Cir. R. 29(d). Although Movants understand that other companies or organizations may seek to file *amicus* briefs in support of rehearing, those companies or organizations have their own specific business perspectives, projects, and customers, in contrast to the broader perspectives and interests of Movants. To the extent possible, Movants have endeavored to coordinate with the Intervenor and other prospective *amici curiae* to avoid duplicative briefing.

CONCLUSION

For the foregoing reasons, Movants respectfully requests that the Court invite them to file the accompanying brief as *amici curiae*.

Date: October 28, 2024

Respectfully submitted

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CERTIFICATE OF COMPLIANCE

1. This motion complies with the word limit of Fed. R. App. P. 27(d)(2) because it contains 1,702 words, excluding the parts exempted by Fed. R. App. P. 32(f) and 27(d)(2), as determined by the word-counting feature of Microsoft Word.

2. This motion complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type-style requirements of Fed. R. App. P. 32(a)(6), because it has been prepared in a proportionally spaced typeface using Microsoft 365 in Times New Roman 14-point font.

Date: October 28, 2024

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CERTIFICATE OF SERVICE

Pursuant to Federal Rule of Appellate Procedure 25, I hereby certify that, on October 28, 2024, I electronically filed the foregoing with the Clerk of the Court for the U.S. Court of Appeals for the District of Columbia Circuit by using the appellate CM/ECF system, and served copies of the foregoing via the Court's CM/ECF system on all ECF-registered counsel.

Date: October 28, 2024

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